

**REMARKS**

In the Final Office Action dated August 5, 2005, the Examiner rejected claims 12-16, 18, 19, 22-26, 28, 29, 43 and 44 under 35 U.S.C. § 102(e) as being anticipated by SHKEDY (U.S. Patent No. 6,260,024); and rejected claims 2-6, 8, 9, 32-36, 38, 39, 41, 42, and 45 under 35 U.S.C. § 103(a) as being unpatentable over SHKEDY. Applicant respectfully traverses these rejections.

By way of the present amendment, claims 42-45 have been amended to improve form. Claims 2-6, 8, 9, 12-16, 18, 19, 22-26, 28, 29, 32-36, 38, 39, and 41-45 remain pending in the present application. In view of the above amendments and the following remarks, all pending claims are considered patentable over the cited SHKEDY reference for at least the reasons set forth in detail below. Reconsideration and timely allowance of all claims are respectfully requested.

**Rejections Under 35 U.S.C. § 102**

Claims 12-16, 18, 19, 22-26, 28, 29, 43 and 44 were rejected under 35 U.S.C. § 102(e) as being anticipated by SHKEDY. Applicant respectfully traverses.

A proper rejection under 35 U.S.C. § 102 requires that a single reference teach *each and every aspect* of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present. See M.P.E.P. § 2131. SHKEDY does not disclose, either explicitly or inherently, each of the features recited in Applicant's claims 12-16, 18, 19, 22-26, 28, 29, 43 and 44.

Independent claim 43, for example, recites a method for performing a monetary transaction including receiving payee identification information, user information, and amount information from a wireless device associated with a user, identifying a first account associated with the user based on the user information, prompting a payee device associated with the payee, for information relating to a second account associated with the payee based on the payee identification information, and transferring funds based on the amount information between the first account and the second account. SHKEDY does not disclose this combination of features, as required by 35 U.S.C. § 102.

For example, SHKEDY does not disclose receiving *payee identification information* from a wireless device associated with a user, as recited in amended claim 43. In the final Office Action, the Examiner relies on col. 5, lines 2-35, as well as col. 6, lines 40-47, 53-63, col. 8, lines 57-65, and col. 11, lines 21-24 of SHKEDY for allegedly disclosing the receipt of payee information by a monetary transaction system (Final Office Action, pg. 3). Applicant respectfully maintains that these sections of SHKEDY do not disclose receiving *payee* identification information, as recited in amended claim 43.

At col. 5, lines 2-35, SHKEDY discloses:

Each of the plurality of buyers who wish to make purchase independently access the control controller 200 to create forward purchase orders (FPOs) to submit their purchase orders for items and/or services. The central controller 200 is preferably located at a remote server.

FIG. 2a illustrates the steps associated with the creation, transmission, and inclusion of an FPO 100 into the PPO database 265. At step 40, a buyer selects the category of goods or services to be purchased. At step 42, the buyer selects the particular item or service in the category. At step 44, the buyer adds a quantity specifier along with any other required buyer specified conditions. At step 46, a

buyer will specify along with item, quantity, and buyer identification data, the pool date (i.e., seller bidding date) he wishes to participate in and an outside delivery date. The pool date represents the specific date at which the central controller (intermediary) 200 will make the PPO available to the sellers for bidding. A buyer will typically have a choice of two or more pool dates from which to choose. He must, however, select only a single pool date into which is FPO 100 will be included. If his FPO comprises multiple categories of goods, he could, however, provide a single pool date per category.

At step 48, the buyer is prompted for possible additional items or services that he wishes to purchase. If so, steps 40-46 are repeated for each additional item or service to be purchased, otherwise at step 50, the buyer attaches his user identification to the FPO and transmits the FPO to the central controller 200.

A typical buyer created forward purchase order, FPO 100, could, for example, specify that the buyer wishes to purchase two dozen BIC medium point black roller ball pens and one dozen BIC medium point blue roller ball pens.

At col. 6, lines 40-63, SHKEDY discloses:

Under the present invention, communications between the various parties may be transmitted via numerous means including a world-wide-web interface, personal digital assistant (PDA), electronic mail, voice mail, facsimile, or postal mail. Other means not explicitly enumerated herein but known to one ordinarily skilled in the art are also within the scope of the invention.

In another embodiment, as a substitute for making the PPO database 265 globally available to a plurality of sellers, the central controller 200 could instead pro-actively contact potential sellers to explicitly request them to bid on the PPOs in the PPO database 265.

The central controller 200 manages the payment system between the buyer and seller automatically. Various methods of payment may be utilized by the invention including credit cards, personal checks, electronic funds transfer, debit card, money orders, corporate purchasing cards, smart cards, digital cash and micropayments. The payment system may also involve the use of an escrow account associated with the buyer wherein funds advanced by the buyer to cover the purchase of a desired good can be kept pending delivery of the goods by the selected seller 20. Moreover, the timing of payment to the seller can be varied.

At col. 8, lines 57-65, SHKEDY discloses:

As shown in FIG. 1, an apparatus of the present invention comprises seller interface 300, central controller 200, and buyer interface 400 (collectively the

"nodes"). Each node is connected via an Internet connection using a public switched phone network, such as those provided by a local or regional telephone operating company. Connection may also be provided by dedicated data lines, cellular, Personal Communication Systems ("PCS"), microwave, or satellite networks.

At col. 11, lines 21-24, SHKEDY discloses:

Network interface 245 is the gateway to communicate with buyers and sellers through respective buyer interface 400 and seller interface 300. Conventional internal or external modems may serve as network interface 245.

These sections of SHKEDY disclose the type of information submitted by buyers in creating forward purchase orders (FPO's) for bidding by potential sellers. These sections of SHKEDY also disclose the manner in which the information is received. Contrary to the Examiner's interpretation, these sections of SHKEDY clearly do not disclose receiving payee (or seller) identification information from the user. Rather, SHKEDY specifically indicates that the user/buyer is submitting an FPO for inclusion in a *bidding pool* which may then be bid upon by multiple potential sellers. The receipt of specific seller or payee identification information from the buyer would eliminate the very benefits that the system of SHKEDY offers, i.e., the ability for buyers to create and submit purchase orders to an intermediary for presentation to multiple potential sellers.

Furthermore, the above-recited sections of SHKEDY further indicate that central controller 200 "manages the payment system between the buyer and the seller automatically" (see col. 6, lines 53-54). More specifically, the central controller 200 of SHKEDY may use an intermediary escrow account for transitioning funds between buyers and sellers. By facilitating payment through central controller 200, payee information is never required from the buyer. Clearly, the system of SHKEDY does not

disclose receiving payee identification information, user information, and amount information from a wireless device associated with the user, as recited in amended claim 43.

In the Decision on Appeal dated October 19, 2007, the Board of Appeals indicated that the language previously recited in claim 43 of "payee information" may be reasonably construed as including information "that is in some manner characterized by one to whom money is paid" (Decision, pg. 10). Further, the Board indicated that the prior claimed "payee information" did not specify "the precise nature of the payee information, and in particular, it does not have to identify the payee" (Id.). Accordingly, the Board construed SHKEDY as disclosing information that is in some manner characterized by one to whom money is paid and affirmed the Examiner's prior rejection of claim 43 based on this interpretation. Implicit in the Board's reasoning is the understanding that, had the pending claims recited language that required the payee information to identify the payee, SHKEDY could not reasonably be construed as disclosing this feature.

Accordingly, by way of the present amendment, Applicant amends claim 43 to recite receiving payee identification information, user information, and amount information from a wireless device associated with a user. Based on the actual disclosure of SHKEDY and based on the interpretation of SHKEDY set forth in the Decision on Appeal, the SHKEDY reference cannot be reasonably construed as disclosing this feature of claim 43. For at least this reason, claim 43 is not anticipated by SHKEDY. Reconsideration and allowance of claim 43 are therefore respectfully requested.

Claims 12-16 and 18-19 depend from claim 43. Therefore, these claims are not anticipated by SHKEDY for at least the reasons given above with respect to claim 43.

Independent claim 44 has been amended to recite features similar to features recited above with respect to claim 43. Therefore, claim 44 is not anticipated by SHKEDY for reasons similar to the reasons given above with respect to claim 43.

Claims 22-26, 28, and 29 depend from claim 44. Therefore, these claims are not anticipated by SHKEDY for at least the reasons given above with respect to claim 44.

**Rejections Under 35 U.S.C. § 103**

Claims 2-6, 8, 9, 32-36, 38, 39, 41, 42, and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over SHKEDY. Applicant respectfully traverses.

Independent claim 42, as amended, is directed to a monetary transaction system that includes a payment processing system configured to receive payee identification information, user information, and amount information from a wireless device associated with the user; identify a first account associated with the user based on the user information; identify a second account associated with the payee based on the payee identification information; transfer funds based on the amount information between the first account and the second account; and send a notification of the transfer of the funds to the wireless device, the notification including an itemization of goods or services associated with the transfer. SHKEDY does not disclose or suggest this combination of features.

For example, SHKEDY does not disclose a payment processing system configured to receive *payee identification information* from a wireless device associated with a user, as recited in amended claim 42. As in the above-discussed rejection of claim 43, the Examiner again relied on col. 5, lines 2-35, col. 6, lines 40-47, 53-63, col. 8, lines 57-65, and col. 11, lines 21-24 of SHKEDY for allegedly disclosing the receipt of payee information by a monetary transaction system (Final Office Action, pg. 5). Applicant respectfully submits that these sections of SHKEDY do not disclose or properly suggest receiving *payee* identification information, as recited in amended claim 42.

As discussed above, the cited section of SHKEDY discloses the type of information submitted by buyers in creating forward purchase orders for bidding by potential sellers. Once a bid has been accepted, payment between the buyer and the seller is managed by the central controller. Contrary to the Examiner's interpretation, the above sections of SHKEDY clearly do not disclose receiving *payee (or seller) identification information from the user*. Rather, SHKEDY specifically indicates that the buyer is submitting an FPO for inclusion in a bidding pool which may then be bid upon by multiple potential sellers, none of which are identified by the seller. Furthermore, although not specifically addressed in the Final Office Action, it would not have been obvious to modify the system of SHKEDY to include payee identification information in the FPO submission by the buyer. Rather, the receipt of specific seller or payee identification information from the buyer would run counter to the entire concept of the SHKEDY system, that being a system that enables buyers to create and submit purchase orders to an intermediary for presentation to multiple potential sellers.

Furthermore, as discussed above in relation to claim 43, the Board of Appeals indicated that the language previously recited in claim 42 of “payee information” may be reasonably interpreted to include any information “that is in some manner characterized by one to whom money is paid” (Decision, pg. 10). Further, the Board indicated that the prior claimed “payee information” did not specify “the precise nature of the payee information, and in particular, it does not have to identify the payee” (Id.). Accordingly, the Board construed SHKEDY as disclosing information that is in some manner characterized by one to whom money is paid and affirmed the Examiner's prior rejection of claim 42 based on this interpretation.

Implicit in the Board's reasoning is the understanding that, had the pending claims recited language that required the payee information to identify the payee, SHKEDY could not reasonably be interpreted as disclosing this feature.

Accordingly, by way of the present amendment, Applicant amends claim 42 to recite a payment processing system configured to receive *payee identification information*, user information, and amount information from a wireless device associated with the user. Based on the interpretation of SHKEDY set forth in the Decision on Appeal, the SHKEDY reference cannot be reasonably construed as disclosing this feature of claim 42.

For at least this reason, claim 42 is patentable over SHKEDY. Reconsideration and allowance of claim 42 are therefore respectfully requested.

Claims 2-6, 8, and 9 depend from claim 42. Therefore, these claims are patentable over SHKEDY for at least the reasons given above with respect to claim 42.



Independent claim 45 has been amended to recite features similar to features recited above with respect to claim 42. Therefore, claim 45 is patentable over SHKEDY for reasons similar to the reasons given above with respect to claim 42.

Claims 32-36, 38, 39, and 41 depend from claim 45. Therefore, these claims are patentable over SHKEDY for at least the reasons given above with respect to claim 45.

### **Conclusion**

As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, assertions as to dependent claims, alleged motivation to combine references, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future.

In view of the foregoing amendments and remarks, Applicant respectfully requests the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

In the event that the application is not believed to be in condition for allowance, the Examiner is invited to contact Applicant's representative at the number shown below to expedite prosecution of this application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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